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SUBJECT: UKRAINE--2009 TIP REPORT: PRESS GUIDANCE AND  
DEMARCHE

REF: A. 2009 STATE 59732

[B.](#) 2009 STATE 5577

11. This is an action cable; see paras 5 through 7 and 10.

12. On June 16, 2009, at 10:00 a.m. EDT, the Secretary will release the 2009 Trafficking in Persons (TIP) Report at a press conference in the Department's press briefing room. This release will receive substantial coverage in domestic and foreign news outlets. Until the time of the Secretary's June 16 press conference, any public release of the Report or country narratives contained therein is prohibited.

13. The Department is hereby providing Post with advance press guidance to be used on June 16 or thereafter. Also provided is demarche language to be used in informing the Government of Ukraine of its tier ranking and the TIP Report's imminent release. The text of the TIP Report country narrative is provided, both for use in informing the Government of Ukraine and in any local media release by Post's public affairs section on June 16 or thereafter. Drawing on information provided below in paras 8 and 9, Post may provide the host government with the text of the TIP Report narrative no earlier than 1200 noon local time Monday June 15 for WHA, AF, EUR, and NEA countries and OOB local time Tuesday June 16 for SCA and EAP posts. Please note, however, that any public release of the Report's information should not/not precede the Secretary's release at 10:00 am EDT on June 16.

14. The entire TIP Report will be available on-line at [www.state.gov/g/tip](http://www.state.gov/g/tip) shortly after the Secretary's June 16 release. Hard copies of the Report will be pouched to posts in all countries appearing on the Report. The Secretary's statement at the June 16 press event, and the statement of and fielding of media questions by G/TIP's Director and Senior Advisor to the Secretary, Ambassador-at-Large Luis CdeBaca, will be available on the Department's website shortly after the June 16 event. Ambassador de Baca will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

15. Action Request: No earlier than 12 noon local time on Monday June 15 for WHA, AF, EUR, and NEA posts and OOB local time on Tuesday June 16 for SCA and EAP posts, please inform the appropriate official in the Government of Ukraine of the June 16 release of the 2009 TIP Report, drawing on the points in para 9 (at Post's discretion) and including the text of the country narrative provided in para 8. For countries where the State Department has lowered the tier ranking, it is particularly important to advise governments prior to the Report being released in Washington on June 16.

16. Action Request continued: Please note that, for those countries which will not receive an "action plan" with specific recommendations for improvement, posts should draw host governments' attention to the areas for improvement identified in the 2009 Report, especially highlighted in the "Recommendations" section of the second paragraph of the narrative text. This engagement is important to establishing the framework in which the government's performance will be

judged for the 2010 Report. If posts have questions about which governments will receive an action plan, or how they may follow up on the recommendations in the 2009 Report, please contact G/TIP and the appropriate regional bureau.

¶7. Action Request continued: On June 16, please be prepared to answer media inquiries on the Report's release using the press guidance provided in para 11. If Post wishes, a local press statement may be released on or after 10:30 am EDT June 16, drawing on the press guidance and the text of the TIP Report's country narrative provided in para 8.

¶8. Begin Final Text of Ukraine's country narrative in the 2009 TIP Report:

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Ukraine (TIER 2 Watch List)  
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Ukraine is a source, transit and, to a lesser extent, destination country for men, women, and children trafficked for the purposes of commercial sexual exploitation and forced labor. Forty-eight percent of the trafficking victims assisted by IOM and its local NGO partners in Ukraine in 2008 suffered sexual exploitation; three percent had been forced to beg; and 49 percent suffered other forms of forced labor. Ukrainian victims are trafficked to Russia, Poland, Turkey, Italy, Austria, Spain, Germany, Portugal, the Czech Republic, United Arab Emirates, United Kingdom, Israel, Greece, Lebanon, Benin, Tunisia, Cyprus, Bosnia and Herzegovina, Hungary, Slovakia, Syria, Switzerland, the United States, Canada and Belarus. Women were forced into the sex industry, or forced to work as housekeepers, in service industries, or in textile or light manufacturing. The majority of Ukrainian male labor trafficking victims were exploited in Russia but also in other countries, primarily as construction laborers, factory and agriculture workers, or sailors. There were three instances in which males were forced to take part in criminal activities, such as dismantling stolen cars for parts to be sold on the black market. Children were most often trafficked for sexual exploitation or forced begging. Ukraine continues to be a country of transit for trafficking victims from Central Asia and Russia. Victims were trafficked within Ukraine for the purpose of labor exploitation in the agriculture and service sectors, sexual exploitation, and begging. In 2008, IOM reported one male from Belarus was trafficked to Ukraine for the purpose of labor exploitation. Homeless children or children in orphanages are particularly vulnerable to trafficking in Ukraine.

The Government of Ukraine does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite these overall efforts, the government did not show evidence of progress in punishing trafficking offenders, addressing the significant complicity of government officials, and providing sufficient protection for trafficking victims; therefore, Ukraine is placed on Tier 2 Watch List.

Recommendations for Ukraine: Seek sentences for convicted trafficking offenders that require them to serve appropriate jail time; take steps to curb trafficking complicity by government officials; continue trafficking-specific training for prosecutors and judges; increase funding for victim protection and assistance; develop formal systems to guide law enforcement in proactive identification of trafficking victims and referral of victims to available services; take steps to provide specialized protection and assistance to child trafficking victims; and consider awareness initiatives targeted at potential clients of the sex trade and labor trafficking beneficiaries to reduce the demand for human trafficking.

Prosecution

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The Government of Ukraine made progress in prosecuting labor trafficking cases during the reporting period, though these efforts were overshadowed by inadequate punishments imposed on both sex and labor trafficking offenders and a lack of

effort to address official complicity in human trafficking. The government prohibits all forms of trafficking through Article 149 of its Criminal Code. Penalties prescribed range from three to 15 years, imprisonment, which are sufficiently stringent and commensurate with those prescribed for other grave crimes. This year, the government prosecuted 80 trafficking cases, compared with 95 cases in 2007. The number of labor trafficking prosecutions increased from 23 in 2007 to 53 in 2008. The government reported 99 convictions in 2008 compared with 128 in 2007. The average prison term imposed on convicted trafficking offenders was six years; however, only 39 percent of convicted traffickers actually served time in jail. Two offenders who were convicted of the most serious category of trafficking crimes were sentenced only to pay fines. In 2008, the General Prosecutor's Office issued a report assessing human trafficking trial procedures and calling for prosecutors to give more serious attention to human trafficking cases. The Academy of Judges incorporated a human trafficking lecture into professional training for judges and the Ministry of Interior conducted ongoing training throughout Ukraine on trafficking awareness for police officers. Widespread trafficking-related corruption of law enforcement officials remained a serious impediment to more effective anti-trafficking efforts in Ukraine. NGOs reported that corruption was particularly a problem at times involving prosecutors or judges, though the government reported no investigations, prosecutions, or convictions of government officials complicit in trafficking.

#### Protection

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Ukraine's protection efforts remained heavily reliant on international donor funding during the reporting period. While one of the goals of the government's 2007-2010 national anti-trafficking plan was to provide assistance to trafficking victims, the government has not developed a mechanism for referral or sufficient funding for assistance. Through donor-sponsored programs and some government services, foreign and domestic victims of trafficking in Ukraine received shelter, medical, psychological, legal, and job placement assistance. The government placed child trafficking victims in temporary homeless shelters for children that do not offer specialized services for trafficking victims. Local governments offered sporadic in-kind contributions toward protection of victims. The government does not have a formal system established to proactively identify trafficking victims. While the government has expressed a policy of encouraging victims to participate in investigations or prosecutions through a witness protection program, in practice the government rarely employed this program due to lack of funding or a lack of prosecutors, understanding of the program. In 2008 IOM, working with its local partners, registered 820 victims, including 32 victims of internal trafficking. IOM reported that 295 of these 820 victims participated in criminal proceedings. There were no reports of victims being punished for unlawful acts committed as a direct result of being trafficked, but there were reports that victims' rights were not fully respected during court trials. The government did not provide legal alternatives to the removal of foreign victims to countries where they may face hardship or retribution.

#### Prevention

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The government made modest progress in preventing trafficking in persons during the reporting period. In 2008, the government spent approximately \$34,431 for printing and distribution of anti-trafficking awareness materials targeting potential victims. The government also cooperated with local television channels to broadcast public service announcements and informational programs aimed at raising awareness of human trafficking. There were no specific campaigns targeted at potential clients of the sex trade or beneficiaries of forced labor. Inadequate funding, lack of performance indicators and other obstacles impeded

implementation of the government's national anti-trafficking plan in 2008. The Kherson regional government provided some financial support to a local awareness campaign. Ministry of Interior police conducted two operations in 2008 aimed at identifying and preventing Ukrainians and foreigners participating in sex-tourism. Ukraine's National Academy of Defense cooperated with IOM to conduct five pre-departure counter trafficking training for Ukrainian troops being deployed for international peacekeeping duties in 2008.

**¶9.** Post may wish to deliver the following points, which offer technical and legal background on the TIP Report process, to the host government as a non-paper with the above TIP Report country narrative:

(begin non-paper)

-- The U.S. Congress, through its passage of the 2000 Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that this is a crime in which the victims' labor or services (including in the "sex industry") are obtained or maintained through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on international flows, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require a showing that the victim was moved.

-- Recent amendments to the TVPA removed the requirement that only countries with a "significant number" of trafficking victims be included in the Report. Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as meeting the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to meet those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to do so are classified as Tier 3.

-- The TVPA also requires the Secretary of State to provide a "Special Watch List" to Congress later in the year. Anti-trafficking efforts of the countries on this list are to be evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year. Countries are included on the "Special Watch List" if they move up in "tier" rankings in the annual TIP Report -- from 3 to 2 or from 2 to 1 -- or if they have been placed on the Tier 2 Watch List.

-- Tier 2 Watch List consists of Tier 2 countries determined: (1) not to have made "increasing efforts" to combat human trafficking over the past year; (2) to be making significant efforts based on commitments of anti-trafficking reforms over the next year, or (3) to have a very significant number of trafficking victims or a significantly increasing victim population. As indicated in reftel B, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier **¶13**. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a

determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

-- Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President could instruct the U.S. executive directors to international financial institutions to oppose loans or other utilization of funds (other than for humanitarian, trade-related or certain types of development assistance) with respect to countries on Tier 3. Countries classified as Tier 3 that take strong action within 90 days of the Report's release to show significant efforts against trafficking in persons, and thereby warrant a reassessment of their Tier classification, would avoid such sanctions. Guidelines for such actions are in the DOS-crafted action plans to be shared by Posts with host governments.

-- The 2009 TIP Report, issuing as it does in the midst of the global financial crisis, highlights high levels of trafficking for forced labor in many parts of the world and systemic contributing factors to this phenomenon: fraudulent recruitment practices and excessive recruiting fees in workers' home countries; the lack of adequate labor protections in both sending and receiving countries; and the flawed design of some destination countries' "sponsorship systems" that do not give foreign workers adequate legal recourse when faced with conditions of forced labor. As the May 2009 ILO Global Report on Forced Labor concluded, forced labor victims suffer approximately \$20 billion in losses, and traffickers' profits are estimated at \$31 billion. The current global financial crisis threatens to increase the number of victims of forced labor and increase the associated "cost of coercion."

-- The text of the TVPA and amendments can be found on website [www.state.gov/g/tip](http://www.state.gov/g/tip).

-- On June 16, 2009, the Secretary of State will release the ninth annual TIP Report in a public event at the State Department. We are providing you an advance copy of your country's narrative in that report. Please keep this information embargoed until 10:00 am Washington DC time June 16. The State Department will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

(end non-paper)

¶10. Posts should make sure that the relevant country narrative is readily available on or though the Mission's web page in English and appropriate local language(s) as soon as possible after the TIP Report is released. Funding for translation costs will be handled as it was for the Human Rights Report. Posts needing financial assistance for translation costs should contact their regional bureau's EX office.

¶11. The following is press guidance provided for Post to use with local media.

Q1: Why was Ukraine given a ranking of Tier 2 Watch List?

A: Ukraine is placed on Tier 2 Watch List because the government did not show evidence of sufficient progress in punishing trafficking offenders, addressing complicity of government officials, and providing sufficient protection for trafficking victims

Q2: What progress did Ukraine make in the last year?

¶A. The government made progress in prosecuting labor trafficking cases during the reporting period, though these

efforts were overshadowed by inadequate punishments imposed on both sex and labor trafficking offenders and a lack of effort to address official complicity in human trafficking.

Q3: What can Ukraine do to improve its fight against trafficking in persons?

A: To improve its anti-trafficking performance, the Ukrainian government could: seek sentences for convicted trafficking offenders that require them to serve appropriate jail time; take steps to curb trafficking complicity by government officials; continue trafficking-specific training for prosecutors and judges; increase funding for victim protection and assistance; develop formal systems to guide law enforcement in proactive identification of trafficking victims and referral of victims to available services; take steps to provide specialized protection and assistance to child trafficking victims; and consider awareness initiatives targeted at potential clients of the sex trade and labor trafficking beneficiaries to reduce the demand for human trafficking.

¶12. The Department appreciates posts' assistance with the preceding action requests.

CLINTON